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Canada

Food and Agricultural Import Regulations and Standards

Canada Introduces Mandatory Nutrition Labeling 2003

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Report Highlights: On January 1, 2003, Canada published new regulations making nutrition labeling mandatory on most food labels; updating requirements for nutrient content claims; and permitting, for the first time in Canada, diet-related health claims for foods. U.S. food products exported to Canada must meet the same labeling requirements as foods produced in Canada. U.S. food manufacturers will have the same transition time to comply with the new nutrition labeling requirements.

Includes PSD changes: No
Includes Trade Matrix: No
Unscheduled Report
Ottawa [CA1], CA

Summary: With a notable exemption for fresh fruits and vegetables, almost all U.S. exports of packaged foods to Canada will be required to comply with Canada's new mandatory nutrition labeling regulations announced this week by Health Canada. During a transitional period of between three and five years, depending on the size of the food manufacturer, most food labels will be required to carry a mandatory Nutrition Facts table listing Calories and 13 key nutrients. The new regulations published on January 1, 2003, in the *Canada Gazette*, Part II, make nutrition labeling mandatory on most food labels; update requirements for nutrient content claims; and permit, for the first time in Canada, diet-related health claims for foods. U.S. food products exported to Canada must meet the same labeling requirements as foods produced in Canada. U.S. food manufacturers will have the same transition time to comply with the new nutrition labeling requirements. End Summary.

On January 2, 2003 Canada's Health Minister, Anne McLellan announced Regulations Amending the Food and Drug Regulations (Nutrition Labeling, Nutrient Content Claims and Health Claims). Canada's nutrition labeling review began in 1998 using a consultative and collaborative process with the participation of health professionals, consumers, NGOs, industry and other government departments at both the federal and provincial/territorial level. Recommendations for mandatory nutrition labeling were presented to Health Canada in November 1999 and were officially accepted in October 2000. Following a consultation on the proposed policy in November 2000, the proposed regulations were published in the *Canada Gazette*, Part I, on June 16, 2001 for comment.

Under the new regulations, producers of prepackaged foods will have to declare the number of calories and the amount of fat, saturated and trans fats, cholesterol, sodium, carbohydrate, fiber, sugars, protein, vitamins A and C, calcium and iron in a specified amount of food.

Certain foods and beverages are exempted from the new labeling requirements, for example, fresh fruit and vegetables and raw single ingredient meat and poultry that are not ground. Health Canada claims that while some manufacturers may choose to start placing a Nutrition Facts table on labels almost immediately, companies have up to three years to comply with the new regulations. Small businesses have five years. The Nutrition Facts table will have a standard format. Diet-related health claims pertaining to reducing the risk of heart disease, cancer, osteoporosis and high blood pressure will be allowed for the first time in Canada.

Further information and a downloadable copy of the Nutrition Labeling Regulations are available on the following Health Canada webpage:

http://www.hc-sc.gc.ca/hpfb-dgpsa/onpp-bppn/labeling-etiquetage/index_e.html

Health Canada's Rationale for Regulatory Intervention and Steps Towards Increased Compatibility with U.S. Nutrition Labeling Requirements

The following is a Health Canada statement regarding Nutrition Labeling in Canada and the prospects for compatibility with U.S. Nutrition Labeling Requirements.

"...Nutrition labeling is mandatory in other jurisdictions, notably in Canada's largest trading partner, the United States. These Regulations will move Canada towards increased compatibility with the US nutrition labeling regulations. Indeed, from the beginning of the structured development of these Regulations, compatibility with the U.S. system, to the greatest extent possible, was a clear objective. However, emerging science, health concerns and differences in diet (e.g., content of *trans* fat in the Canadian diet) limit the extent of harmonization. For example, the U.S. nutrition labelling regulations were passed in 1993 and their provisions have not been updated to reflect emerging science (e.g., nutritional importance of omega-3 fatty acids and concerns around consumption of *trans* fatty acids) or consumer experience with existing regulations. In addition, differences in units of measure and bilingual requirements in Canada also limit harmonization.

Canada and the US both supported work by the Institute of Medicine of the National Academies to develop new Dietary Reference Intakes. This was done in recognition that, if the scientific underpinnings for nutrition policies and programs are harmonized, there will be improvements in compatibility between the regulations of the two countries. The U.S. and Canada have also contracted with the Institute of Medicine to advise them on the selection of reference values for labeling purposes with a view to develop a common set of reference values.

The Institute of Medicine report is expected in September 2003. Health Canada will review the recommendations and engage the FDA in discussions on the harmonization of the reference values. As soon as the Canadian regulations are finalized, Canadian officials will meet with officials from the US to address the issues related to *trans* fat declaration and rounding to zero with a view to reaching mutual acceptance. An appropriate bilateral forum will need to be established to conduct these discussions." End Excerpt.

The Canadian Food Inspection Agency (CFIA) will be responsible for the enforcement of mandatory nutritional labeling regulations. The CFIA released the following Q & A regarding the new regulations:

Q1. Now that the new nutrition labeling regulations are law, does industry have to immediately put the new information on food products or is there a period of time given to comply?

A1. The regulations contain a transitional provision that allows a period of time for the labeling and advertising of products that still meet the former regulations to comply with the new regulations. The transition period is three years after the day the nutrition labeling regulations came into force, or five years for a product sold by a manufacturer who had gross revenue from sales in Canada of food of less than C\$1,000,000 for the 12-month period immediately prior to these regulations coming into force. During the transition period, the CFIA will enforce both the current requirements of the Food and Drugs Act and Regulations and the new requirements that will have been published in the Canada Gazette, Part II. Foods cannot be labeled with a combination of the two nutrition labeling systems. The transition time frame does not apply in the following circumstances:

- if a label or advertisement makes one of the following nutrient content claims: 100% fat free, (percentage) fat free, free of trans fatty acids, reduced in trans fatty acids, lower in trans fatty acids, source of omega-3 poly unsaturated fatty acids, or source of omega-6 poly-unsaturated fatty acids; if a health claim is applied to the label or advertisement, or if the expression "nutrition facts", "valeur nutritive", or "valeurs nutritives" is applied to a label or advertisement.

Q2. Are imported products required to comply with the new nutrition labeling requirements?

A2. Yes, imported products must meet the same labeling requirements as foods produced in Canada. They have the same transition time period to comply as other food products.

Q3. For imported products sold at retail, is the importer or the retailer responsible for applying the information on the label?

A3. The importer is responsible for the compliant labeling of foods imported into Canada. Products not labeled in compliance with Canadian regulations can be imported provided that the importer gives the CFIA notification of the proposed importation of the food and the food will be relabeled or modified as may be necessary to enable its sale to be lawful in Canada, within three months after the importation of the product. It is important to note that the food cannot be sold in Canada until it is compliant with Canadian regulations. Retailers, however, are also legally obligated to ensure that the products they sell are compliant with the appropriate regulations.

Q4. Does Canada accept the nutrition information panels of other countries on foods sold in Canada?

A4. No, the nutrition panels of other countries are not permitted on the labels of foods sold in Canada. The Food and Drug Regulations set out the manner in which energy and nutrient values must be declared, as well as the presentation and requirements for nutrient content claims and health claims. Subsection 5(2) of the Food and Drugs Act prohibits labeling that is contrary to the Regulations. Since the nutrition information of other countries does not match the Canadian requirements, labels and advertisements with nutrition information other than that permitted by the Food and Drug Regulations are considered to be labeled or advertised contrary to Canadian legislation.

Q5. Does the nutrition information have to appear in French and English on a food label?

A5. Yes, the information in the nutrition facts table is mandatory information and is required to be shown in both official languages (French and English), unless the product is otherwise exempt from the bilingual labeling requirements under section B.01.012 (2) of the Food and Drug Regulations.

Q6. Are other languages permitted in the nutrition facts table in addition to French and English?

A6. The format and presentation of the nutrition facts table is specifically prescribed and there is

no provision for the use of other languages within the table. Although other languages are not permitted within the nutrition facts table, they could appear separately outside the nutrition facts table, provided the nutrition facts table is already shown in English and French on the label and the additional information does not violate the Food and Drugs Act and Regulations, the Consumer Packaging and Labeling Act and Regulations, or any other federal legislation.

Q7. Do the regulations pertaining to nutrition labeling, nutrient content claims and health claims apply to advertising as well as labeling?

A7. Yes, the regulations apply to all types of advertisements, including print, radio, television, Internet, etc. There are specific sections for advertising in the new regulations.

Q8. Some products are required to show certain content information that is not included in the nutrition facts table, either on the principal display panel or elsewhere on the label. For example, aspartame must show the amount in milligrams per serving of stated sized when added. Does the nutrition facts table have to be shown in addition to this information?

A8. Yes, in general, the nutrition facts table is required on all prepackaged products, whether or not similar content information is otherwise required to be shown separately. For example, a beverage with added aspartame requires both a separate statement of aspartame content as well as the nutrition facts table. If aspartame is added to a product that would otherwise be exempt from a nutrition facts table, the exemption is lost and the nutrition facts table must be displayed. As aspartame is neither a core nutrient nor an additional nutrient, the aspartame content statement must appear outside the nutrition facts table.

Q9. Are quantitative claims for substances that are not recognized as nutrients, such as lycopenes and phytochemicals, allowed in the nutrition facts table?

A9. No, only the nutrients shown in the tables to sections B.01.401 and B.01.402 of the nutrition labeling regulations in the Food and Drug Regulations are permitted to be shown within the nutrition facts table. Lycopene and phytochemicals are not listed in these tables. Quantitative declarations of these types of substances may be declared in grams per serving of stated size elsewhere on the label, but not within the nutrition facts table.

Q10. How is the CFIA dealing with an increased demand for voluntary label reviews?

A10. Voluntary label reviews are a service provided by the CFIA. While a strategy to deal with an increased demand for label reviews is being developed, manufacturers, importers, and retailers are reminded that it is their responsibility to ensure that product labels comply with the new nutrition labeling requirements.

Q11. At the end of the transition period, will foods already on the retail shelves that were manufactured off-site need to be relabeled if they do not meet the new nutrition labeling regulations?

A11. Once the transition period is over, it is the responsibility of the Canadian food industry to ensure that product labels comply with the new requirement as products leave the plant or warehouse. For imported products, label compliance is expected as product enters Canada or when it leaves the importer's warehouse into the distribution chain. It is unlikely that the CFIA would immediately focus its resources on foods still on retail shelves that were purchased by the retailer before the end of the transition period, provided the labels appear to comply with the old requirements. However, this would not prevent the CFIA from taking appropriate action at retail should circumstances warrant.

Q12. Is there a different transition period for specialty or seasonal items?

A12. No. Specialty and seasonal products will have to comply within the same transition period as other food products. The transition period is not related to the type of product.

Q13. How is the CFIA monitoring and enforcing the new nutrition labeling?

A13. In general, from an enforcement perspective, the CFIA will consider the following priorities: that the nutrition facts table has been applied where required, the mandatory information and format is given, and the claims are compliant. The initial approach will be educational. Verification of the accuracy of nutrient values and claims will be done later by assessing industry control measures. Analytical verification by CFIA of nutrient levels will be done on a complaint and investigative basis.

Q14. What action will be taken for products packaged at retail, but not made there, that do not comply with the nutrition facts table format?

A14. The enforcement policy with respect to non-compliance issues is currently being developed by the CFIA. However, it will take into consideration the extent of the violation, a company's past history, and its willingness to comply with the new requirements. It should be noted that the new nutrition labeling regulations exempt some retail foods from displaying the nutrition facts table, including in the following cases:

- a fresh vegetable or fruit or any combination of fresh vegetables or fruits without any added ingredients, an orange with added food color or a fresh vegetable or fruit coated with paraffin wax or petrolatum;
- raw single ingredient meat, meat by-product, poultry meat, or poultry meat by-product, except if ground, and raw single ingredient marine or fresh water animal product;
- sold only in the retail establishment where they are made from its ingredients, including from premixes if an ingredient other than water is added during the preparation and processing;
- sold only at a road-side stand, craft show, flea market, fair, farmers' market, or sugar bush by the individual who prepared and processed the product;
- an individual serving that is sold for immediate consumption and that has not been subjected to

a process to extend its durable life, including special packaging; and

-sold only in the retail establishment where the product is packaged, if the product is labeled by means of a sticker and has an available display surface of less than 200 cm².

For more exemptions and when exemptions no longer apply, refer to the nutrition labeling regulation, B.01.401.

Q15. What CFIA guidance is available to members of industry to help them develop nutrition labels?

A15. The CFIA is updating the current Guide to Food Labeling and Advertising with information about the available formats and requirements on nutrition labeling. The Guide to Food Labeling and Advertising is posted on the CFIA's web site at www.inspection.gc.ca. It is expected that the updated version will be posted in early 2003. As well, the CFIA is producing a compliance test for the determination of the accuracy of nutrient values for nutrition labeling and nutrient content claims on labels and in advertising, with information on sampling plans and tolerances. This will also be posted on the CFIA web site. Health Canada and the CFIA are proposing to jointly produce a guidance document dealing with the development and use of data bases by industry, to facilitate the generation of accurate nutrient values.

Q16. Do the regulations address the labeling of allergens?

A16. No, the regulations relate only to nutrition labeling: the nutrition facts table, nutrient content claims, and health claims. Allergen labeling is not part of these regulations.

Q17. Do the regulations address the labeling of foods derived from biotechnology?

A17. No, the regulations relate only to nutrition labeling: the nutrition facts table, nutrient content claims, and health claims. Labeling of foods derived from biotechnology is not part of these regulations.

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